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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

EXAMINER	
FAULK, DEVONA E	
ART UNIT	**PAPER NUMBER**
2615	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	**Application No.** 10/679,443	**Applicant(s)** LAITINEN ET AL.	
	Examiner Devona E. Faulk	**Art Unit** 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *response filed on 11/14/2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-8,10,18 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,8-10,18,21- 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Remarks

1. The last action on this case was an advisory mailed on 12/15/2006, indicated that further searching was required because of the amendments to the claims. The applicant asserted that the finality of the last office action should be withdrawn after receiving the advisory. After consultation with the examiner's SPE, it was determined that the finality of the last office action would be withdrawn.

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

3. Claims 2,9,11-17,19-20 are cancelled.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1,3,7,10,21-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasushi et al. (US 6,048,310) in view of Carnes et al. (WO 00/52604 A1).

. Regarding **claim 1**, Yasushi discloses an information distribution device (Figure 1) comprising at least one loudspeaker by which audio information is made audible to a user (Figure 1; loudspeaker; reads on presenting audio information of claim 11 and loudspeaker of claim 20);

monitoring means including measuring means for obtaining measurements in the system (10,20 state sensors and biosensors, Figure 1; column 7, lines 6-11),

said measuring means comprising at least one sensor which is connected to the monitoring means and is non-invasively connectable to the user, for measuring at least one biophysiological phenomenon directly from the user (Figure 2B; column 9, lines 63-65) and which produces signals describing a somatic phenomenon directly associated to the user, wherein the monitoring means are adapted to received said signals and measure a change of the somatic phenomenon (10,20 state sensors and biosensors, Figure 1; column 7, lines 6-11; reads on performing measurements of claim 11; reads on a monitor obtaining system of claim 20),

an information database storing audio files (ROM 63, RAM 64, Figure 1; column 9, lines 28-35; reads on database of claim 20), and

control means (calculation unit 51, Figure 1) responsive to the monitoring means, adapted to determine on the basis of the measured change of the somatic phenomenon the current state of the user, and perform an operation in accordance with the current state of the user , the operation including a selection of a certain audio file containing speech and/or music from among the audio files stored in the information database and a control of a manner of presentation of the selected audio file through the loudspeaker (column 10, lines 17-29; column 9, lines 40-50; reads on controlling the operation , determining the current state of the user of claim 11; reads on controller of claim 20).

Yasushi teaches the control means comprise local control means operatively connected to control the presentation device, and computer that does the processing. Yasushi fails to disclose a global control means as claimed. A local system being integrated or part of a global system is well known in the art as taught by Carnes. Carnes discloses a global means operatively connected to control the local control means via a communication network and adapted to receive the change of the somatic phenomenon which sent from the local control means (page 6, line 15-page 8, line 3; page 13, line 15-page 14, line 15,; Figures 1-3) ; and analyzing said change by using a meter suitable to meter activity and the ability of the user (user profile and various web pages read on meter; page 8, lines 7-13; page 13, line 22-page 14, line 8) and on the basis of the analysis results control operations to be performed by the local control means (Carnes teaches that based on the analysis of the data, the client computer (11) can receive matching entries corresponding to health educational materials that are customized to the user's health predisposition, physiological condition, etc ; page 16, lines 24- 32).

Therefore, it would have been obvious to modify Yasushi so that it is part of a global systems having a global means adapted to control a local control means in order to be able to monitor more than one individual at a time.

Regarding **claim 3**, Yasushi as modified by Carnes discloses that the measurement means are adapted to make at least one type of measurement from a group including measurements of the EMG, EEG, and EKG type, and measurements indicating skin conductivity, temperature, blood pressure and frequency of respiration (biosensors, Figure 2B).

Regarding **claim 7**, Yasushi as modified by Carnes discloses that the measurement means comprise sensors located on the user, the sensors being adapted to measure the nature of movements of the user (biosensors 21-24, Figure 2B; column 9, lines 63-65).

Regarding **claim 10,** Yasushi teaches the control means comprise local control means operatively connected to control the presentation device, and computer that does the processing. Yasushi fails to disclose a global control means adapted to control several different local control means, which are separate from each other. Carnes discloses a global system for on-line health monitoring and education. He discloses client computers (11; Figure 1; local means) and a web server (15; Figure 1; global means) adapted to communicate with the local control means through a communication network (page 4, line 23-page 5, line 13); transferring measuring data from the client computers to the server (page 13, line 15-page 14, line 15) and defining control information for the local means (page 13, line 15-page 14, line 15). Therefore, it would have been obvious to have a global means adapted to control several local control means in order to be able to monitor more than one individual at a time.

Regarding **claim 21**, Yasushi as modified by Carnes discloses wherein the audio information to be made audible to the user is selected on the basis of the current location of the user (column 3, lines 33-54; column 11, line 28-column 13, line 10). All elements of claim 22 are comprehended by the rejection of claim 1.

Regarding **claim 22**, Yasushi as modified by Carnes discloses that said meter is a resident assessment instrument. Carnes discloses (user profile and various web pages read on meter; page 8, lines 7-13; page 13, line 22-page 14, line 8). These profiles and web pages are assessment instruments.

Regarding **claim 23**, Yasushi as modified by Carnes discloses that the system is used for rehabilitation of the user. Carnes system is an on-line health monitoring and education tool. The education including information that the user is to read and follow in order to better his or her condition (page 1, lines 13-17). The examiner has interpreted this as used for rehabilitation. All elements of claim 23 are comprehended by the rejection of claim 1.

6. **Claims 4,5 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasushi et al. (US 6,048,310) as applied above to claim 1 and Carnes et al. (WO 00/52604 A1) as applied above to claim 1 in view of Anderson et al. (U.S. Patent 5,568,126).

Regarding **claim 4**, Yasushi as modified by Carnes discloses a monitoring means (See Yasushi as applied to claim 1 above). Yasushi as modified by Carnes fails to disclose an observation means for measuring the state of the environment of the user, whereby the control means are also responsive to the observation means. Anderson discloses an environmental measurements surrounding conditions recorder that detecting environmental conditions (50; Figure 4)(column 5, lines 10-30) responsive to the physiological condition monitoring system (10). It would have been obvious to modify Yasushi as modified to have an environmental sensor as taught by Anderson in order to provide a less stressful environmental for people.

Regarding **claims 5 and 18**, Yasushi as modified by Carnes fails to disclose a regulation means for regulating the state of the environment of the user, whereby the control means are adapted to control the regulation means. Anderson teaches of a regulation means (computer system 22). Claims 514, and 18 are rejected for reasons as stated apropos of claims 4 and 13 above.

7. **Claims 6 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasushi et al (US 6,048,310) as applied above to claim 1 and Carnes et al. (WO 00/52604 A1) as applied above to claim 1 in view of Osorio et al. (US 6,549,804).

Regarding **claim 6**, Yasushi as modified by Carnes fails to disclose adjusting the somatic operation of the user. Osorio discloses adjusting the somatic operation of the user (column 9, lines 21-27). It would have been obvious to modify Yasushi as modified to adjust the somatic operation of the user in order to prevent certain medical conditions.

Regarding **claim 8,** Yasushi as modified by Carnes fails to disclose that the system is characterized in that it is incorporated into a portable player. Osorio teaches of a system that monitors biophysiological changes in the brain incorporated in a portable player (column 4, lines 54-57). It would have been obvious to modify Yasushi as modified so that the system is incorporated in a portable player as taught by Osorio in order to provide a miniaturized version of the system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848.

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2615.The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEF

VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600